

COLORADO STATE BOARD OF MEDICAL EXAMINERS

SPECIAL RULEMAKING HEARING MINUTES

JUNE 22, 2010

The Colorado State Board of Medical Examiners held a special rulemaking meeting on Tuesday, June 22, 2010, in the office of the Board of Medical Examiners, 1560 Broadway, Room 1550, Denver, Colorado, beginning at 10:06 a.m.

Present via telephone conference for all or part of the meeting were: Dr. Watts, Mr. Berson (departed at 11:12 a.m.), Dr. Butler, Dr. Overholt, Dr. Melendez, Mr. Jennings, Ms. Hewitt, and Mr. Schoenmakers (joined at 10:56 a.m.). Present in person for all or part of the meeting were: Susan Miller, Section Director; Marschall S. Smith, Program Director; Maria Soto, Program Assistant; and First Assistant Attorney General Ilene Wolf Moore.

The meeting was conducted by Dr. Watts.

The meeting was properly noticed under Part 4 of Title 24, Article 6.

MINUTES

Emergency Rulemaking Hearing

At 10:00 a.m., the Board convened the emergency rulemaking hearing to consider amendment, repeal or adoption of Board Rules 100, 110, 140, 220, 400, 800, 150, 155, 700, and 295. The Board found that immediate adoption, amendment or repeal of these rules is imperatively necessary to comply with state law. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

Although not required by law, the Board provided the public an opportunity to sign up to present verbal testimony, to offer written testimony, and to offer written comments on the rules under consideration. No one appeared or provided written testimony.

The Emergency Rule Making Hearing was closed at 10:08 a.m.

Emergency Rulemaking

BOARD RULES

Each of the Rules were considered separately and the opportunity for discussion was provided.

Rule 100

The Board found that immediate adoption of this rule is imperatively necessary to comply with state law. Specifically, House Bill 10-1260, signed by the Governor on June 10, 2010, repeals § 12-36-113, C.R.S., governing examinations and therefore reference to that statutory provision is no longer proper. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to adopt the proposed changes to Rule 100, effective July 1, 2010.

Rule 110

The Board found that immediate adoption of this rule is imperatively necessary to comply with state law. Specifically, House Bill 10-1260, signed by the Governor on June 10, 2010, repeals § 12-36-113, C.R.S., governing examinations and therefore reference to that statutory provision is no longer proper. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to adopt the proposed changes to Rule 110, effective July 1, 2010.

Rule 140

The Board found that immediate adoption of this rule is imperatively necessary to comply with state law. Specifically, House Bill 10-1260, signed by the Governor on June 10, 2010, repeals § 12-36-107(3), C.R.S., governing the qualifications for distinguished foreign teaching physician licensees, and re-codifies the requirement at § 12-36-107.2, C.R.S. The purpose of these amendments is to conform to House Bill 10-1260. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to adopt the proposed changes to Rule 140, effective July 1, 2010.

Rule 220

The Board found that immediate adoption of this rule is imperatively necessary to comply with state law. Specifically, House Bill 10-1260, signed by the Governor on June 10, 2010, modified the minimum indemnity amount that a physician must carry to one million dollars per incident and three million dollars annual aggregate per year pursuant to § 13-64-301(1)(a.5), C.R.S. This rule is being amended to comply with the new statutory requirements. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to adopt the proposed changes to Rule 220, effective July 1, 2010.

Rule 400

The Board found that immediate adoption of this rule is imperatively necessary to comply with state law. Specifically, House Bill 10-1260, signed by the Governor on June 10, 2010, repeals § 12-36-106(5), C.R.S., governing physician assistant qualification for licensure and re-codified it at § 12-36-107.4, C.R.S. Additionally, the legislation now allows a physician to be responsible for the direction and supervision of four, rather than two, physician assistants. This rule is being amended to comply with the new statutory requirements. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to adopt the proposed changes to Rule 400, effective July 1, 2010.

Rule 800

The Board found that immediate adoption of this rule is imperatively necessary to comply with state law. Specifically, House Bill 10-1260, signed by the Governor on June 10, 2010, repeals § 12-36-132, C.R.S., governing injunctive relief, and re-codified the provision at § 12-36-129(6), C.R.S. The purpose of these amendments is to confirm to House Bill 10-1260. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to adopt the proposed changes to Rule 800, effective July 1, 2010.

Rule 150

The Board found that immediate repeal of this rule is imperatively necessary to comply with state law. Specifically, Senate Bill 10-124, signed by the Governor on June 10, 2010, repeals the Michael Skolnik Transparency Act, found at § 12-36-111.5, C.R.S., and re-codifies it at § 24-34-110, C.R.S. Senate Bill 10-124 grants the Director of the Division of Registrations the authority to enforce and promulgate rules to implement the section. As the authority no longer resides with the Board, the rule is being repealed effective August 11, 2010. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to repeal Rule 150 effective August 11, 2010.

Rule 155

The Board found that immediate repeal of this rule is imperatively necessary to comply with state law. Specifically, Senate Bill 10-124, signed by the Governor on June 10, 2010, repeals the Michael Skolnik Transparency Act, found at § 12-36-111.5, C.R.S., and re-codifies it at § 24-34-110, C.R.S. Senate Bill 10-124 grants the Director of the Division of Registrations the authority to enforce and promulgate rules to implement the section. As the authority no longer resides with the Board, the rule is being repealed effective August 11, 2010. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to repeal Rule 155 effective August 11, 2010.

Rule 700

The Board found that immediate repeal of this rule is imperatively necessary to comply with state law. Specifically, House Bill 10-1128, signed by the Governor on April 29, 2010, repeals Part 2 of the Medical Practice Act, found at § 12-36-201 and 202, C.R.S., governing unlicensed x-ray technicians. As this authority no longer resides with the Board, the rule is being repealed effective July 1, 2010. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to repeal Rule 700 effective July 1, 2010.

Rule 295

The Board found that immediate adoption of this rule is imperatively necessary to comply with state law. Specifically, House Bill 10-1260, signed by the Governor on June 10, 2010, implements a new statutory provision, § 12-36-118.5, C.R.S. The purpose of this rule is to conform to the new requirement. The Board further found that compliance with the requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

After due consideration, a motion was made, seconded, and carried to adopt Rule 295 with amendments, effective July 1, 2010. Dr. Melendez abstained from voting on the matter.

BOARD POLICIES

Following consideration of the rules subject to emergency rulemaking, the Board considered amendments to Board Policy 20-07 and 40-23; repeal of Board Policy 40-20, 40-21, and 40-22; and authorized staff to make non-substantive changes to Board Policies in order to comply with the changes to the Medical Practice Act effective July 1, 2010.

The proposed changes to the Board Policies 40-20, 40-21, and 40-22 were considered jointly and the opportunity for discussion was provided.

After due consideration, a motion was made, seconded, and carried to repeal Policy 40-20, 40-21, and 40-22; the repeal to be effective August 11, 2010.

The proposed changes to the Board Policies 20-07, and 40-23 were considered jointly and the opportunity for discussion was provided.

After due consideration, a motion was made, seconded, and carried to adopt the proposed changes to Policy 20-07 and 40-23, effective July 1, 2010.

A motion was made, seconded, and carried to authorize staff to make non-substantive changes, specifically change the name from the Colorado State Board of Medical Examiners to the Colorado Medical Board and citations to law, to the appropriate Board Policies in order to comply with the changes to the Medical Practice Act which become effective July 1, 2010.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:14 a.m.

These Minutes were approved by the Board on this 19th day of August 2010.

THE COLORADO STATE BOARD OF MEDICAL EXAMINERS

Approved by: Mark C. Watts, M.D.

Date: August 19, 2010